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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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John Darcy Bradley

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06/03/2009

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EXAMINER

CHAN, SING P

ART UNIT

PAPER NUMBER

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/575,874	Applicant(s) BRADLEY ET AL.	
	Examiner SING P. CHAN	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24,27,30-32 and 48-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24,27,30-32 and 48-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 24 and 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lo et al (U.S. 6,648,533) in view of Kutcher (U.S. 4,540,101), Sawada (U.S. 5,531,819), and Baron (U.S. 6,945,645).

Regarding claim 24, Lo et al discloses a method of forming a label. The method includes providing a plastic receptor media with an adhesive on one surface, applying a printing onto the adhesive surface using inkjet printer, after printing the information onto the receptor media, the media is applied to an item to label the item (Col 5, lines 44-51), wherein the items includes consumer items such as food item with images that describe or portray the products (Col 1, lines 19-21). The receptor media includes transparent tape, cellophane tape or permanent adhesive tape or transparent labels attached to 8

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1/2 X 11 backing (Col 6, lines 6-19) and the printing would be visible through the receptor media. Lo et al is silent as to applying the label to seal a package to tamper proof or tamper evident by forming weakened portions or areas on the label prior to applying the label and the ink jet's ink is a hot wax ink. However, providing labels with weakened portions or areas and sealing packaging to provide tamper proof or tamper evident is well known and conventional as shown for example by Kutcher. Kutcher discloses a method of forming a container with a temper indicating band. The method includes providing a band with latitudinal array of score lines extending across the entire length and divide the band into upper and lower portions (Col 2, lines 33-39), the band includes product information printed on the band as well as other printed matter promoting the sale of a product (Col 2, lines 40-46), attaching the upper portion of the band to closure skirt and the lower portion to the neck of the container with adhesive (Col 3, lines 40-43), which when a torque is applied to the band, the score lines that form a fracturable strips are usually broken or fractured (Col 2, lines 57-62) and indicate tampering. One of ordinary skill in the art reading Lo et al and Kutcher would appreciate the label or band of Kutcher can be printed by the method of Lo et al prior to application to the container.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply a band or label with score lines to a container, which would break or fracture when a torque is applied as disclosed by Kutcher in the method of Lo et al to provide a temper indicating band or label that is attractive in appearance and does not cause any undue difficulty in removing the closure from the container. (See

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Kutcher, Col 1, lines 38-41) Lo et al as modified above is silent as to the ink jet's ink is a hot wax type ink. However, providing hot wax ink for ink jet printer is well known and conventional as shown for example by Sawada. Sawada discloses a hot melt ink for ink jet. The hot melt ink includes a wax, a dye as a colorant (Col 3, lines 24-36) and a plasticizer (Col 4, lines 44-56).

It would have been obvious to one of ordinary skill in the art at the time invention was made to provide hot melt ink with wax for ink jet printer as disclosed by Sawada in the method of Lo et al to provide an ink with a reduction of heat of fusion, improvement of transparency, prevention of release due to flexing of the printed matter, improve luster, and dissolution of dyes. (See Sawada, Col 1 line 64 to Col 2, line 2) Lo as modified above is silent as to forming the weakened portion before applying the label to the package. However, forming score lines with a scoring printer is well known and conventional as shown for example by Baron. Baron discloses a method of scoring media. The method includes providing a scoring printer with a printing head and a scoring head mounted in tandem on a moving carriage (Col 5, line 64 to Col 6, line 6) and printing and scoring the media concurrently (Col 5, lines 18-29). One of ordinary skill in the art reading Lo et al, Kutcher, and Baron would appreciate the scoring printer of Baron can be included in the printer of Lo et al to form the score lines of Kutcher in the tamper indicating label prior to application to the package or container.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a scoring printer to form scoring lines as well as image on a media as disclosed by Baron in the method of Lo et al as modified by combination

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of references to provide a printer that allows complex shapes to be cut or scored into the media as part of the printing operation. (See Baron, Col 1, lines 40-42)

Regarding claim 30, Lo et al discloses the printing is applied as a reverse image on the adhesive layer (Col 6, lines 61-64) and the transparent of the media allow the printing be visible while protecting the printing from smudging or other degradation (Col 10, lines 25-27)

Regarding claims 31 and 32, Lo et al discloses the printer applies print imaging such as image and text to the adhesive of the media or tape (Col 10, lines 15-23), which required the tape be moved during the printing to form the images and texts on the tape.

4. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lo et al (U.S. 6,648,533) in view of Kutcher (U.S. 4,540,101), Sawada (U.S. 5,531,819), and Baron (U.S. 6,945,645) as applied to claim 24 above, and further in view of Beggs et al (U.S. 6,799,187) and Delp et al (U.S. 6,924,077).

Lo et al as modified above is silent as to the labels are marked with a green light laser or CO₂ based laser. However, using either an ink jet or laser coloring to form the marking is well known and conventional as shown for example by Beggs et al. Beggs et al discloses method for marking parts. The method includes using either an ink jet or a laser coloring/etching/engraving to form the marking either on the parts or on the labels (Col 5, lines 13-25), which are interchangeable.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to form marking using either ink jet printing or laser coloring or marking as disclosed by Beggs et al in the method of Lo et al as modified by

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combination of references to provide means to form marks, which are interchangeable.

Lo et al as modified is silent as to using a green light laser or CO₂ laser to mark the adhesive. However, using CO₂ or Dd:YAG laser or excimer laser to mark material with pigments is well known and conventional as shown for example by Delp et al. Delp et al discloses providing a plastic or coating with one or more pigments (Col 1, lines 46-56) and providing laser such as CO₂ or Dd:YAG laser or excimer laser to inscribe the plastic or coating and the laser wavelength ranged from 1060 nm to 157 nm (Col 4, lines 17-45).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide laser such as CO₂ or Dd:YAG laser or excimer laser with wavelength ranged from 1060 nm to 157 nm, which included green laser as disclosed by Delp et al in the method of Lo et al as modified by combination of references to provide a high speed graphic inscriptions with resistant to abrasion. (See Delp et al, Col 1, lines 21-24)

5. Claims 48, 49, 51-53, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lo et al (U.S. 6,648,533) in view of Kutcher (U.S. 4,540,101), Sawada (U.S. 5,531,819), Baron (U.S. 6,945,645), and Ewing (U.S. 4,587,158).

Regarding claims 48, 49, and 55, Lo et al discloses a method of forming a label. The method includes providing a plastic receptor media with an adhesive on one surface, applying a printing onto the adhesive surface using inkjet printer, after printing the information onto the receptor media, the media is applied to an item to label the item (Col 5, lines 44-51). Wherein the items includes consumer items such as food item with

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images that describe or portray the products (Col 1, lines 19-21). The receptor media includes transparent tape, cellophane tape or permanent adhesive tape or transparent labels attached to 8 1/2 X 11 backing (Col 6, lines 6-19) and the printing would be visible through the receptor media. Lo et al is silent as to applying the label to seal a package to tamper proof or tamper evident by forming weakened portions or areas on the label prior to applying the label, the adhesive is a rubber based adhesive, and the ink jet's ink is a hot wax ink. However, providing labels with weakened portions or areas and sealing packaging to provide tamper proof or tamper evident is well known and conventional as shown for example by Kutcher. Kutcher discloses a method of forming a container with a temper indicating band. The method includes providing a band with latitudinal array of score lines extending across the entire length and divide the band into upper and lower portions (Col 2, lines 33-39), the band includes product information printed on the band as well as other printed matter promoting the sale of a product (Col 2, lines 40-46), attaching the upper portion of the band to closure skirt and the lower portion to the neck of the container with adhesive (Col 3, lines 40-43), which when a torque is applied to the band, the score lines that form a fracturable strips are usually broken or fractured (Col 2, lines 57-62) and indicate tampering. One of ordinary skill in the art reading Lo et al and Kutcher would appreciate the label or band of Kutcher can be printed by the method of Lo et al prior to application to the container.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply a band or label with score lines to a container, which would break or fracture when a torque is applied as disclosed by Kutcher in the method of Lo

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et al to provide a temper indicating band or label that is attractive in appearance and does not cause any undue difficulty in removing the closure from the container. (See Kutcher, Col 1, lines 38-41) Lo et al as modified above is silent as to the ink jet's ink is a hot wax type ink and the adhesive is a rubber based adhesive. However, providing hot wax ink for ink jet printer is well known and conventional as shown for example by Sawada. Sawada discloses a hot melt ink for ink jet. The hot melt ink includes a wax, a dye as a colorant (Col 3, lines 24-36) and a plasticizer (Col 4, lines 44-56).

It would have been obvious to one of ordinary skill in the art at the time invention was made to provide hot melt ink with wax for ink jet printer as disclosed by Sawada in the method of Lo et al to provide an ink with a reduction of heat of fusion, improvement of transparency, prevention of release due to flexing of the printed matter, improve luster, and dissolution of dyes. (See Sawada, Col 1 line 64 to Col 2, line 2) Lo as modified above is silent as to forming the weakened portion before applying the label to the package. However, forming score lines with a scoring printer is well known and conventional as shown for example by Baron. Baron discloses a method of scoring media. The method includes providing a scoring printer with a printing head and a scoring head mounted in tandem on a moving carriage (Col 5, line 64 to Col 6, line 6) and printing and scoring the media concurrently (Col 5, lines 18-29). One of ordinary skill in the art reading Lo et al, Kutcher, and Baron would appreciate the scoring printer of Baron can be included in the printer of Lo et al to form the score lines of Kutcher in the tamper indicating label prior to application to the package or container.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a scoring printer to form scoring lines as well as image on a media as disclosed by Baron in the method of Lo et al as modified by combination of references to provide a printer that allows complex shapes to be cut or scored into the media as part of the printing operation. (See Baron, Col 1, lines 40-42) Lo et al modified above discloses the adhesive includes gummed adhesive, acrylic adhesive or a pressure sensitive adhesive (See Lo et al, Col 6, lines 4-6) but is silent as to the adhesive is rubber base. However, providing acrylic and rubber based adhesive as the pressure sensitive adhesive for labels is well known and conventional as shown for example by Ewing. Ewing discloses a method of forming a label. The method includes providing a polyethylene layer and coating a pressure sensitive adhesive, which includes acrylic adhesive as well as other such as natural or synthetic rubbers adhesive (Col 3, lines 29-45).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide either acrylic or rubber based adhesive as the pressure sensitive adhesive for labels as disclosed by Ewing in the method of Lo et al as modified by combination of references to provide any adhesives that are interchangeable as the pressure sensitive adhesive for the labels.

Regarding claim 51, Lo et al discloses the printing is applied as a reverse image on the adhesive layer (Col 6, lines 61-64) and the transparent of the media allow the printing be visible while protecting the printing from smudging or other degradation (Col 10, lines 25-27)

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Regarding claims 52 and 53, Lo et al discloses the printer applies print imaging such as image and text to the adhesive of the media or tape (Col 10, lines 15-23), which required the tape be moved during the printing to form the images and texts on the tape.

6. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lo et al (U.S. 6,648,533) in view of Kutcher (U.S. 4,540,101), Sawada (U.S. 5,531,819), Baron (U.S. 6,945,645), and Ewing (U.S. 4,587,158) as applied to claim 48 above, and further in view of Beggs et al (U.S. 6,799,187) and Delp et al (U.S. 6,924,077).

Lo et al as modified above is silent as to the labels are marked with a green light laser or CO₂ based laser. However, using either an ink jet or laser coloring to form the marking is well known and conventional as shown for example by Beggs et al. Beggs et al discloses method for marking parts. The method includes using either an ink jet or a laser coloring/etching/engraving to form the marking either on the parts or on the labels (Col 5, lines 13-25), which are interchangeable.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to form marking using either ink jet printing or laser coloring or marking as disclosed by Beggs et al in the method of Lo et al as modified by combination of references to provide means to form marks, which are interchangeable. Lo et al as modified is silent as to using a green light laser or CO₂ laser to mark the adhesive. However, using CO₂ or Dd:YAG laser or excimer laser to mark material with pigments is well known and conventional as shown for example by Delp et al. Delp et al discloses providing a plastic or coating with one or more pigments (Col 1, lines 46-56) and providing laser such as CO₂ or Dd:YAG laser or excimer laser to inscribe the plastic

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or coating and the laser wavelength ranged from 1060 nm to 157 nm (Col 4, lines 17-45).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide laser such as CO₂ or Dd:YAG laser or excimer laser with wavelength ranged from 1060 nm to 157 nm, which included green laser as disclosed by Delp et al in the method of Lo et al as modified by combination of references to provide a high speed graphic inscriptions with resistant to abrasion. (See Delp et al, Col 1, lines 21-24)

7. Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lo et al (U.S. 6,648,533) in view of Kutcher (U.S. 4,540,101), Sawada (U.S. 5,531,819), and Baron (U.S. 6,945,645) as applied to claim 24 above, and further in view of Graham (U.S. 3,088,830).

Lo et al as modified above is silent as to the package is for meat. However providing tamper resistant to food packaging is well known and conventional as shown for example by Graham. Graham discloses a method of hermetically sealing food packages. The method includes providing food containers and applying a paper band with a plurality of perforations between the label proper and the extended portion and the twisting of the closure cap with the paper strip overlaying the cap skirt will tear the strip at the weakened line and clearly indicate tampering (Col 2, lines 16-63). One of ordinary skill in the art reading Graham would appreciate the food containers or jars can be used to storage any food products and the hermetically sealed and therefore any food such as vegetables, fruits, meats, cheese, milk, or sauces would be an obvious

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variant as to the food products that can be packaged and hermetically sealed in the packages or containers.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide tamper resistant labels for food packages such as vegetables, fruits, meats, cheese, milk, or sauces, which are an obvious variant and hermetically sealing these foods as discloses by Graham in the method of Lo et al as modified by combination of references to provide a means to verify the sterility and suitability of the food for human consumption. (See Graham, Col 1, lines 13-20)

8. Claim 54 rejected under 35 U.S.C. 103(a) as being unpatentable over Lo et al (U.S. 6,648,533) in view of Kutcher (U.S. 4,540,101), Sawada (U.S. 5,531,819), Baron (U.S. 6,945,645), and Ewing (U.S. 4,587,158) as applied to claim 48 above, and further in view of Graham (U.S. 3,088,830).

Lo et al as modified above is silent as to the package is for meat. However providing tamper resistant to food packaging is well known and conventional as shown for example by Graham. Graham discloses a method of hermetically sealing food packages. The method includes providing food containers and applying a paper band with a plurality of perforations between the label proper and the extended portion and the twisting of the closure cap with the paper strip overlaying the cap skirt will tear the strip at the weakened line and clearly indicate tampering (Col 2, lines 16-63). One of ordinary skill in the art reading Graham would appreciate the food containers or jars can be used to storage any food products and the hermetically sealed and therefore any food such as vegetables, fruits, meats, cheese, milk, or sauces would be an obvious

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variant as to the food products that can be packaged and hermetically sealed in the packages or containers.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide tamper resistant labels for food packages such as vegetables, fruits, meats, cheese, milk, or sauces, which are an obvious variant and hermetically sealing these foods as discloses by Graham in the method of Lo et al as modified by combination of references to provide a means to verify the sterility and suitability of the food for human consumption. (See Graham, Col 1, lines 13-20)

9. Claims 57 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lo et al (U.S. 6,648,533) in view of Kutcher (U.S. 4,540,101), Sawada (U.S. 5,531,819), and Baron (U.S. 6,945,645) as applied to claim 24 above, and further in view of Allen (U.S. 3,104,806).

Lo et al discloses labels on consumer items includes bar codes for inventory control, price information, identifying characteristic of the goods, source of the goods and as for food item includes images such as text and graphics that describe or portray the product (See Lo et al, Col 1, lines 13-21) but is silent as to the label includes the weight. However, providing weight information on food package label is well known and conventional as shown for example by Allen. Allen discloses a method of printing a label for food packaging. The method includes providing a scale connect to a computer set with unit price of the product, computing the final price, printing the label with showing the commodity, weight, price, and computer value and the label is applied to the package as soon as it is removed from the scale. (See Allen, Col 1, lines 56-67)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a scale connect to a computer and printing label with commodity, weight, price, and computer value and the label is applied to the package as soon as it is removed from the scale as disclosed by Allen in the method of Lo et al as modified by combination of references to provide labels or tickets being produced rapidly and made available for application to each package as soon as it is removed from the scale. (See Allen, Col 1, lines 56-66)

Response to Arguments

10. Applicant's arguments, see Page 8, line 3 to Page 9, line 19, filed April 14, 2009, with respect to the rejection(s) of claim(s) 24, 27, and 30-32 under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Lo et al (U.S. 6,648,533) disclosing a method of printing a label using an adhesive tape as well as label food packages, Kutcher (U.S. 4,540,101) disclosing using a label with weakened area to form tamper proof label for containers or packages, and Baron (U.S. 6,945,645) disclosing a scoring printer to print and score a media within a single apparatus.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SING P. CHAN whose telephone number is (571)272-1225. The examiner can normally be reached on Monday-Thursday 7:30AM-11:00AM and 12:00PM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Philip C. Tucker can be reached on 571-272-1095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sing P Chan/
Acting Examiner of Art Unit 1791

/Philip C Tucker/
Supervisory Patent Examiner, Art Unit 1791